

152 FERC ¶ 61,130  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Philip D. Moeller, Cheryl A. LaFleur,  
Tony Clark, and Colette D. Honorable.

Phillips 66 Carrier LLC

Docket No. OR15-29-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued August 17, 2015)

1. On June 19, 2015, Phillips 66 Carrier LLC (Phillips 66) filed a Petition for Declaratory Order (Petition) regarding its proposed Cross-Channel Connector Project, which would provide capacity to transport refined petroleum products from refineries and terminals on the south side of the Houston Ship Channel to the refineries and terminals on the north side of the channel (Expansion Project).
2. Specifically, Phillips 66 seeks approval of its committed rate structure, priority service, and terms of service for the Expansion Project by August 17, 2015, in order that Phillips 66 and its contract shippers can have assurance that the committed shipper rates and terms of service will be honored when the Expansion Project enters service. The Commission grants the rulings requested by Phillips 66, as discussed below.

**Background and Petition Summary**

3. The Expansion Project entails several components, which include an expansion of Phillips 66's existing pipeline by increasing pump capabilities, reactivation of an idle section of pipeline under the Houston Ship Channel, and new connections with Magellan Pipeline Company, L.P. and KM Liquids Terminals LLC. According to Phillips 66, shippers will have the ability to move between several of the Houston Ship Channel's largest refined products terminals, providing additional market options in a congested supply and trading environment for refined products.<sup>1</sup> The Expansion Project is expected to enter service in September 2015.

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<sup>1</sup> Petition at 4.

4. The Expansion Project is expected to have an initial system capacity of up to approximately 180,000 barrels per day (bpd), with the ability to add 50,000 bpd more during a potential Phase 2.
5. Phillips 66 states it conducted a widely publicized open season from October 17, 2013 to January 9, 2014, seeking term and volume commitments in return for priority service at a premium rate. All interested parties had an opportunity to participate and notice of the open season was published and reported in a wide variety of industry and general circulation publications. Phillips 66 explains that shippers participating in the open season were required to sign a confidentiality agreement and were provided a Transportation Services Agreement (TSA) which included a *pro forma* tariff intended to be filed with the Commission before the Expansion Project enters service.<sup>2</sup>

### **Requested Rulings**

6. Phillips 66 requests Commission confirmation and approval of the following aspects of the Expansion Project:
  - A. A tariff rate structure that provides different rates for committed and uncommitted volumes, and confirmation that the provisions of the TSAs will govern the transportation services Phillips 66 provides to the committed shippers, with committed shippers paying the rates for which they contracted on the basis set forth in the TSA for the duration of the TSA term;
  - B. Committed volume rates in the TSAs that will be treated as settlement rates during the term of the TSAs, including upon their initial filing in the pipeline's tariff, pursuant to section 342.4(c) of the Commission's regulations;
  - C. Reservation of up to 90 percent of the available Expansion Project capacity for priority service at a premium rate for the committed volumes of committed shippers; and
  - D. The TSA rollover provision under which the term of the agreement will renew from year to year after the initial term until terminated by Phillips 66 or the committed shipper.

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<sup>2</sup> Petition at 4-5.

### **Public Notice, Interventions, Protests, and Comments**

7. Notice of the Petition was issued on June 23, 2015, providing for motions to intervene, comments and protests to be filed on or before July 10, 2015. Pursuant to Rule 214 of the Commission's regulations,<sup>3</sup> all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. The Petition is unopposed.

### **Terms of the Expansion Project & Phillips 66's Arguments**

8. Phillips 66 maintains the proposed priority service terms and rate structures are reasonable, not unduly discriminatory, and consistent with Commission policy and precedent. Phillips 66 explains it offered priority service to potential shippers that submitted binding volume commitments of at least 5,000 bpd for a five-year term (committed shippers). At the termination of the initial five-year term, Phillips 66 explains that the TSAs will continue on a year-to-year basis, unless terminated by Phillips 66 or a committed shipper by prior written notice.

9. Phillips 66 explains it offered committed shippers priority service for up to 90 percent of the available capacity of the Expansion Project, in exchange for making long-term volume commitments. The remaining (no less than) 10 percent of available capacity is reserved for uncommitted volumes. Phillips 66 states that commitments made during the open season resulted in more than 10 percent of capacity being available for uncommitted volumes.<sup>4</sup>

10. Phillips 66 states that under the proposed apportionment terms, the committed shippers will receive priority service for their committed volumes. In the event the Expansion Project is in prorationing, at least 10 percent of available capacity will be reserved for uncommitted volumes. Committed shippers will pay a premium rate for transportation of their committed volumes of at least one cent per barrel above the uncommitted rate.

11. Phillips 66 explains committed shipper rates are divided into three tiers based on monthly volume commitments. Each tier will have a postage stamp rate, meaning the same rate would apply to the shipper regardless of the origin or destination of the shipper's transportation.

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<sup>3</sup> 18 C.F.R. § 385.214 (2014).

<sup>4</sup> Currently, based on executed TSAs, considerably more than 10 percent of capacity will be available for uncommitted volumes. *See* Petition at 13.

12. Phillips 66 states the committed rates may increase subject to the annual FERC oil pipeline rate index, beginning July 1, 2016. Phillips 66 explains that if the index decreases, Phillips 66 may increase the committed tariff rates only up to a certain adjustment factor described in the TSA, based upon the percentage change in the FERC index and amount of the decrease over the applicable periods as specified in the TSA.

13. Phillips 66 also states that under the TSA, the committed rates can increase to recover regulatory costs for improvements, modifications, or facilities expenses related to public safety, pollution control, or similar reasons as a result of any government laws, rules, regulations, or government or court orders. In such instances, Phillips 66 is required to notify committed shippers of the proposed increase and a committed shipper has the right to reject the proposed increase. If the committed shipper rejects the proposed increase, Phillips 66 may terminate the TSA with that committed shipper.<sup>5</sup>

### **Commission Analysis**

14. The Commission will grant the rulings requested by Phillips 66. The Commission approves the committed rate structure, which allows priority service at a premium rate for the committed volumes of the committed shippers for up to 90 percent of the available capacity of the Expansion Project. The proposed priority service was offered to all interested parties through a widely publicized and non-discriminatory open season. Consistent with Commission precedent, committed shippers will pay a premium rate for transportation of their committed volumes of at least one cent per barrel above the uncommitted rate. The Commission approves the proposed priority service terms, finding they are consistent with Commission precedent.<sup>6</sup> The Commission also approves the use of committed rate volume tiers<sup>7</sup> and postage stamp rates<sup>8</sup> for each tier, as consistent with Commission precedent.

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<sup>5</sup> Petition at 6.

<sup>6</sup> *Shell Pipeline Co. LP*, 139 FERC ¶ 61,228 (2012).

<sup>7</sup> *Oxy Midstream Strategic Dev., LLC and Magellan Midstream Partners, L.P.*, 141 FERC ¶ 61,005 (2012).

<sup>8</sup> *Sunoco Pipeline L.P.*, 149 FERC ¶ 61,191 at P 19 (2014); *Enable Bakken Crude Services, LLC*, 148 FERC ¶ 61,048 (2014).

15. The Commission also approves Phillip 66's request to file the committed rates as settlement rates. The Commission has ruled that such provisions are consistent with the framework and intent of section 342.4(c) of the Commission's regulations.<sup>9</sup>

16. Finally, the Commission approves the rollover provisions that were fully disclosed in Phillip 66's open season, consistent with the Commission's approval of similar contract extension and rollover provisions in prior declaratory orders.<sup>10</sup>

The Commission orders:

The Commission grants the Petition, consistent with the discussion above.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>9</sup> *Seaway Crude Pipeline Co. LLC*, 142 FERC ¶ 61,201, at P 12 (2013).

<sup>10</sup> *Panola Pipeline Co., LLC*, 151 FERC ¶ 61,140 (2015); *Alpha Crude Connector, LLC*, 149 FERC ¶ 61,001, at PP 22, 27 (2014); *CenterPoint Energy Bakken Crude Services, LLC*, 144 FERC ¶ 61,130, at P 35 (2013).